

S. Res. 561. A resolution designating the month of September 2006, as "Rural America Month"; considered and agreed to.

### ADDITIONAL COSPONSORS

S. 1062

At the request of Mr. KENNEDY, the name of the Senator from Wisconsin (Mr. KOHL) was added as a cosponsor of S. 1062, a bill to amend the Fair Labor Standards Act of 1938 to provide for an increase in the Federal minimum wage.

S. 1537

At the request of Mr. AKAKA, the name of the Senator from Minnesota (Mr. DAYTON) was added as a cosponsor of S. 1537, a bill to amend title 38, United States Code, to provide for the establishment of Parkinson's Disease Research Education and Clinical Centers in the Veterans Health Administration of the Department of Veterans Affairs and Multiple Sclerosis Centers of Excellence.

S. 1840

At the request of Mr. THUNE, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 1840, a bill to amend section 340B of the Public Health Service Act to increase the affordability of inpatient drugs for Medicaid and safety net hospitals.

S. 1948

At the request of Mr. MENENDEZ, his name was added as a cosponsor of S. 1948, a bill to direct the Secretary of Transportation to issue regulations to reduce the incidence of child injury and death occurring inside or outside of passenger motor vehicles, and for other purposes.

S. 1998

At the request of Mr. CONRAD, the name of the Senator from New Jersey (Mr. MENENDEZ) was added as a cosponsor of S. 1998, a bill to amend title 18, United States Code, to enhance protections relating to the reputation and meaning of the Medal of Honor and other military decorations and awards, and for other purposes.

S. 2250

At the request of Mr. GRASSLEY, the names of the Senator from Nebraska (Mr. NELSON), the Senator from New Jersey (Mr. LAUTENBERG), the Senator from Vermont (Mr. LEAHY) and the Senator from New Jersey (Mr. MENENDEZ) were added as cosponsors of S. 2250, a bill to award a congressional gold medal to Dr. Norman E. Borlaug.

S. 2590

At the request of Mr. NELSON of Florida, his name was added as a cosponsor of S. 2590, a bill to require full disclosure of all entities and organizations receiving Federal funds.

At the request of Mr. COBURN, the names of the Senator from Washington (Ms. CANTWELL), the Senator from Idaho (Mr. CRAIG) and the Senator from North Carolina (Mrs. DOLE) were added as cosponsors of S. 2590, supra.

S. 2599

At the request of Mr. VITTER, the name of the Senator from Kansas (Mr.

ROBERTS) was added as a cosponsor of S. 2599, a bill to amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act to prohibit the confiscation of firearms during certain national emergencies.

S. 2642

At the request of Mrs. FEINSTEIN, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of S. 2642, a bill to amend the Commodity Exchange Act to add a provision relating to reporting and record-keeping for positions involving energy commodities.

S. 2990

At the request of Mr. VITTER, the name of the Senator from Minnesota (Mr. COLEMAN) was added as a cosponsor of S. 2990, a bill to amend title XVIII of the Social Security Act to restore financial stability to Medicare anesthesiology teaching programs for resident physicians.

S. 3681

At the request of Mr. DOMENICI, the name of the Senator from Minnesota (Mr. COLEMAN) was added as a cosponsor of S. 3681, a bill to amend the Comprehensive Environmental Response Compensation and Liability Act of 1980 to provide that manure shall not be considered to be a hazardous substance, pollutant, or contaminant.

S. 3695

At the request of Mr. ROCKEFELLER, the name of the Senator from Wisconsin (Mr. KOHL) was added as a cosponsor of S. 3695, a bill to amend the Federal Food, Drug, and Cosmetic Act to prohibit the marketing of authorized generic drugs.

S. 3739

At the request of Mr. COLEMAN, the name of the Senator from Minnesota (Mr. DAYTON) was added as a cosponsor of S. 3739, a bill to establish a Consortium on the Impact of Technology in Aging Health Services.

S. 3747

At the request of Mr. ROCKEFELLER, the names of the Senator from New Jersey (Mr. MENENDEZ) and the Senator from New Jersey (Mr. LAUTENBERG) were added as cosponsors of S. 3747, a bill to amend title XVIII of the Social Security Act and the Employee Retirement Income Security Act of 1974 to provide access to Medicare benefits for individuals ages 55 to 65, to amend the Internal Revenue Code of 1986 to allow a refundable and advanceable credit against income tax for payment of such premiums, and for other purposes.

S. 3788

At the request of Mr. BROWNBACK, the name of the Senator from Florida (Mr. MARTINEZ) was added as a cosponsor of S. 3788, a bill to clarify Federal law to prohibit the dispensing, distribution, or administration of a controlled substance for the purpose of causing, or assisting in causing, the suicide, euthanasia, or mercy killing of any individual.

S. 3795

At the request of Mr. SMITH, the name of the Senator from New Mexico (Mr. DOMENICI) was added as a cosponsor of S. 3795, a bill to amend title XVIII of the Social Security Act to provide for a two-year moratorium on certain Medicare physician payment reductions for imaging services.

S. 3801

At the request of Mr. SMITH, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of S. 3801, a bill to support the implementation of the Darfur Peace Agreement and to protect the lives and address the humanitarian needs of the people of Darfur, and for other purposes.

S. 3827

At the request of Mrs. LINCOLN, the name of the Senator from Arkansas (Mr. PRYOR) was added as a cosponsor of S. 3827, a bill to amend the Internal Revenue Code of 1986 to extend and expand the benefits for businesses operating in empowerment zones, enterprise communities, or renewal communities, and for other purposes.

S. 3828

At the request of Mr. INHOFE, the name of the Senator from Wyoming (Mr. ENZI) was added as a cosponsor of S. 3828, a bill to amend title 4, United States Code, to declare English as the official language of the Government of the United States, and for other purposes.

S. 3837

At the request of Mr. AKAKA, the names of the Senator from Nebraska (Mr. NELSON) and the Senator from Arkansas (Mrs. LINCOLN) were added as cosponsors of S. 3837, a bill to authorize the establishment of the Henry Kuualoha Giugni Kupuna Memorial Archives at the University of Hawaii.

S. 3848

At the request of Mr. KYL, the name of the Senator from Pennsylvania (Mr. SANTORUM) was added as a cosponsor of S. 3848, a bill to amend title 18, United States Code, to support the war on terrorism, and for other purposes.

S. 3855

At the request of Mr. CONRAD, the names of the Senator from Nebraska (Mr. HAGEL) and the Senator from Arkansas (Mr. PRYOR) were added as cosponsors of S. 3855, a bill to provide emergency agricultural disaster assistance, and for other purposes.

S. CON. RES. 94

At the request of Mr. COCHRAN, the name of the Senator from Texas (Mr. CORNYN) was added as a cosponsor of S. Con. Res. 94, a concurrent resolution expressing the sense of Congress that the needs of children and youth affected or displaced by disasters are unique and should be given special consideration in planning, responding, and recovering from such disasters in the United States.

S. CON. RES. 106

At the request of Mr. JOHNSON, the name of the Senator from Maryland

(Ms. MIKULSKI) was added as a cosponsor of S. Con. Res. 106, a concurrent resolution expressing the sense of Congress regarding high level visits to the United States by democratically elected officials of Taiwan.

S. CON. RES. 110

At the request of Mr. DEWINE, the name of the Senator from Iowa (Mr. HARKIN) was added as a cosponsor of S. Con. Res. 110, a concurrent resolution commemorating the 60th anniversary of the historic 1946 season of Major League Baseball Hall of Fame member Bob Feller and his return from military service to the United States.

AMENDMENT NO. 4194

At the request of Mr. CARPER, the name of the Senator from North Dakota (Mr. CONRAD) was added as a cosponsor of amendment No. 4194 intended to be proposed to H.R. 8, a bill to make the repeal of the estate tax permanent.

AMENDMENT NO. 4857

At the request of Mr. KENNEDY, the names of the Senator from Maryland (Mr. SARBANES), the Senator from Maryland (Ms. MIKULSKI), the Senator from New Mexico (Mr. BINGAMAN) and the Senator from Connecticut (Mr. LIEBERMAN) were added as cosponsors of amendment No. 4857 proposed to H.R. 5631, a bill making appropriations for the Department of Defense for the fiscal year ending September 30, 2007, and for other purposes.

AMENDMENT NO. 4897

At the request of Mr. SCHUMER, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of amendment No. 4897 proposed to H.R. 5631, a bill making appropriations for the Department of Defense for the fiscal year ending September 30, 2007, and for other purposes.

AMENDMENT NO. 4904

At the request of Mr. BIDEN, his name was added as a cosponsor of amendment No. 4904 proposed to H.R. 5631, a bill making appropriations for the Department of Defense for the fiscal year ending September 30, 2007, and for other purposes.

#### STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. FRIST (for himself, Mr. MCCONNELL, and Mr. INHOFE):

S. 3861. A bill to facilitate bringing to justice terrorists and other unlawful enemy combatants through full and fair trials by military commissions, and for other purposes; read the first time.

Mr. FRIST. I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3861

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "Bringing Terrorists to Justice Act of 2006".

#### SEC. 2. FINDINGS.

Congress makes the following findings:

(1) For more than 10 years, the al Qaeda terrorist organization has waged an unlawful war of violence and terror against the United States and its allies. Al Qaeda was involved in the bombing of the World Trade Center in New York City in 1993, the bombing of the United States Embassies in Kenya and Tanzania in 1998, and the attack on the U.S.S. Cole in Yemen in 2000. On September 11, 2001, al Qaeda launched the most deadly foreign attack on United States soil in history. Nineteen al Qaeda operatives hijacked four commercial aircraft and piloted them into the World Trade Center Towers in New York City and the headquarters of the United States Department of Defense at the Pentagon, and downed United Airlines Flight 93. The attack destroyed the Towers, severely damaged the Pentagon, and resulted in the deaths of approximately 3,000 innocent people.

(2) Following the attacks on the United States on September 11th, Congress recognized the existing hostilities with al Qaeda and affiliated terrorist organizations and, by the Authorization for the Use of Military Force Joint Resolution (Public Law 107-40), recognized that "the President has authority under the Constitution to take action to deter and prevent acts of international terrorism against the United States" and authorized the President "to use all necessary and appropriate force against those nations, organizations, or persons he determines planned, authorized, committed, or aided the terrorist attacks that occurred on September 11, 2001 . . . in order to prevent any future acts of international terrorism against the United States by such nations, organizations or persons."

(3) The President's authority to convene military commissions arises from the Constitution's vesting in the President of the executive power and the power of Commander in Chief of the Armed Forces. As the Supreme Court of the United States recognized in *Madsen v. Kinsella*, 343 U.S. 341, 346-48 (1952), "[s]ince our nation's earliest days, such commissions have been constitutionally recognized agencies for meeting many urgent governmental responsibilities related to war. . . . They have taken many forms and borne many names. Neither their procedure nor their jurisdiction has been prescribed by statute. It has been adapted in each instance to the need that called it forth."

(4) In exercising the authority vested in the President by the Constitution and laws of the United States, including the Authorization for Use of Military Force Joint Resolution, and in accordance with the law of war, the President has detained enemy combatants in the course of this armed conflict and issued the Military Order of November 13, 2001, to govern the "Detention, Treatment, and Trial of Certain Non-Citizens in the War Against Terrorism." This Order authorized the Secretary of Defense to establish military commissions to try individuals subject to the Order for any offenses triable by military commission that such individuals are alleged to have committed.

(5) The Supreme Court in *Hamdan v. Rumsfeld*, 126 S. Ct. 2749 (2006), held that the military commissions established by the Department of Defense under the President's Military Order of November 13, 2001, were not consistent with certain aspects of United States domestic law. The Congress may by law, and does by enactment of this statute, eliminate any deficiency of statutory authority to facilitate bringing terrorists with whom the United States is engaged in armed conflict to justice for violations of the law of war and other offenses triable by military

commissions. The prosecution of such individuals by military commissions established and conducted consistent with this Act fully complies with the Constitution, the laws of the United States, treaties to which the United States is a party, and the law of war.

(6) The use of military commissions is particularly important in this context because other alternatives, such as the use of courts-martial, generally are impracticable. The terrorists with whom the United States is engaged in armed conflict have demonstrated a commitment to the destruction of the United States and its people, to the violation of the law of war, and to the abuse of American legal processes. In a time of ongoing armed conflict, it generally is neither practicable nor appropriate for combatants like al Qaeda terrorists to be tried before tribunals that include all of the procedures associated with courts-martial.

(7) Many procedures for courts-martial would not be practicable in trying the unlawful enemy combatants for whom this Act provides for trial by military commission. For instance, court martial proceedings would in certain circumstances—

(A) compel the Government to share classified information with the accused, even though members of al Qaeda cannot be trusted with our Nation's secrets and it would not be consistent with the national security of the United States to provide them with access to classified information;

(B) exclude the use of hearsay evidence even though such evidence often will be the best and most reliable evidence that the accused has committed a war crime. For example, many witnesses in military commission trials are likely to be foreign nationals who are not amenable to process or may be precluded for national security reasons from entering the United States or Guantanamo Bay to testify. Other witnesses may be unavailable because of military necessity, incarceration, injury, or death. In short, applying the hearsay rules from the Manual for Courts-Martial or from the Federal Rules of Evidence would make it virtually impossible to bring terrorists to justice for their violations of the law of war;

(C) specify speedy trials and technical rules for sworn and authenticated statements when, due to the exigencies of wartime, the United States cannot safely require members of the armed forces to gather evidence on the battlefield, including civilian eyewitness testimony, as though they were police officers. Nor can the United States divert members from the front lines and their duty stations to attend military commission proceedings. Therefore, strict compliance with such rules for evidence gathered on the battlefield would be impracticable, given the preeminent focus on military operations and the chaotic nature of combat.

(8) The exclusive judicial review for which this Act, and the Detainee Treatment Act of 2005, provides is without precedent in the history of armed conflicts involving the United States, exceeds the scope of judicial review historically provided for by military commissions, and is channeled in a manner appropriately tailored to—

(A) the circumstances of the conflicts between the United States and international terrorist organizations; and

(B) the need to ensure fair treatment of those detained as enemy combatants, to minimize the diversion of members of the armed forces from other wartime duties, and to protect the national security of the United States.

(9) In early 2002, as memorialized in a memorandum dated February 7, 2002, the President determined that common Article 3 of the Geneva Conventions did not apply